

Conference Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 293

HOUSE BILL 2382

AN ACT

AMENDING SECTION 15-2041, ARIZONA REVISED STATUTES; RELATING TO SCHOOL
CONSTRUCTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-2041, Arizona Revised Statutes, is amended to
3 read:

4 15-2041. New school facilities fund; capital plan

5 A. A new school facilities fund is established consisting of monies
6 appropriated by the legislature and monies credited to the fund pursuant to
7 section 37-221 or 42-5030.01. The school facilities board shall administer
8 the fund and distribute monies, as a continuing appropriation, to school
9 districts for the purpose of constructing new school facilities. On June 30
10 of each fiscal year, any unobligated contract monies in the new school
11 facilities fund shall be transferred to the capital reserve fund established
12 by section 15-2003.

13 B. The school facilities board shall prescribe a uniform format for
14 use by the school district governing board in developing and annually
15 updating a capital plan that consists of each of the following:

16 1. Enrollment projections for the next five years for elementary
17 schools and eight years for middle and high schools, including a description
18 of the methods used to make the projections.

19 2. A description of new schools or additions to existing schools
20 needed to meet the building adequacy standards prescribed in section 15-2011.
21 The description shall include:

22 (a) The grade levels and the total number of pupils that the school or
23 addition is intended to serve.

24 (b) The year in which it is necessary for the school or addition to
25 begin operations.

26 (c) A timeline that shows the planning and construction process for
27 the school or addition.

28 3. Long-term projections of the need for land for new schools.

29 4. Any other necessary information required by the school facilities
30 board to evaluate a school district's capital plan.

31 5. If a school district pays tuition for all or a portion of the
32 school district's high school pupils to another school district, the capital
33 plan shall indicate the number of pupils for which the district pays tuition
34 to another district. If a school district accepts pupils from another school
35 district pursuant to section 15-824, subsection A, the school district shall
36 indicate the projections for this population separately. This paragraph does
37 not apply to a small isolated school district as defined in section 15-901.

38 C. If the capital plan indicates a need for a new school or an
39 addition to an existing school within the next four years or a need for land
40 within the next ten years, the school district shall submit its plan to the
41 school facilities board by September 1 and shall request monies from the new
42 school facilities fund for the new construction or land. Monies provided for
43 land shall be in addition to any monies provided pursuant to subsection D of
44 this section.

1 D. The school facilities board shall distribute monies from the new
2 school facilities fund as follows:

3 1. The school facilities board shall review and evaluate the
4 enrollment projections and either approve the projections as submitted or
5 revise the projections. In determining new construction requirements, the
6 school facilities board shall determine the net new growth of pupils that
7 will require additional square footage that exceeds the building adequacy
8 standards prescribed in section 15-2011. If the projected growth and the
9 existing number of pupils exceeds three hundred fifty pupils who are served
10 in a school district other than the pupil's resident school district, the
11 school facilities board, the receiving school district and the resident
12 school district shall develop a capital facilities plan on how to best serve
13 those pupils. A small isolated school district as defined in section 15-901
14 is not required to develop a capital facilities plan pursuant to this
15 paragraph.

16 2. If the approved projections indicate that additional space will not
17 be needed within the next two years for elementary schools or three years for
18 middle or high schools in order to meet the building adequacy standards
19 prescribed in section 15-2011, the request shall be held for consideration by
20 the school facilities board for possible future funding and the school
21 district shall annually submit an updated plan until the additional space is
22 needed.

23 3. If the approved projections indicate that additional space will be
24 needed within the next two years for elementary schools or three years for
25 middle or high schools in order to meet the building adequacy standards
26 prescribed in section 15-2011, the school facilities board shall provide an
27 amount as follows:

28 (a) Determine the number of pupils requiring additional square footage
29 to meet building adequacy standards. This amount for elementary schools
30 shall not be less than the number of new pupils for whom space will be needed
31 in the next year and shall not exceed the number of new pupils for whom space
32 will be needed in the next five years. This amount for middle and high
33 schools shall not be less than the number of new pupils for whom space will
34 be needed in the next four years and shall not exceed the number of new
35 pupils for whom space will be needed in the next eight years.

36 (b) Multiply the number of pupils determined in subdivision (a) of
37 this paragraph by the square footage per pupil. The square footage per pupil
38 is ninety square feet per pupil for preschool children with disabilities,
39 kindergarten programs and grades one through six, one hundred square feet for
40 grades seven and eight, one hundred thirty-four square feet for a school
41 district that provides instruction in grades nine through twelve for fewer
42 than one thousand eight hundred pupils and one hundred twenty-five square
43 feet for a school district that provides instruction in grades nine through
44 twelve for at least one thousand eight hundred pupils. The total number of
45 pupils in grades nine through twelve in the district shall determine the

1 square footage factor to use for net new pupils. The school facilities board
2 may modify the square footage requirements prescribed in this subdivision for
3 particular schools based on any of the following factors:

4 (i) The number of pupils served or projected to be served by the
5 school district.

6 (ii) Geographic factors.

7 (iii) Grade configurations other than those prescribed in this
8 subdivision.

9 (iv) Compliance with minimum school facility adequacy requirements
10 established pursuant to section 15-2011.

11 (c) Multiply the product obtained in subdivision (b) of this paragraph
12 by the cost per square foot. The cost per square foot is ninety dollars for
13 preschool children with disabilities, kindergarten programs and grades one
14 through six, ninety-five dollars for grades seven and eight and one hundred
15 ten dollars for grades nine through twelve. The cost per square foot shall
16 be adjusted annually for construction market considerations based on an index
17 identified or developed by the joint legislative budget committee as
18 necessary but not less than once each year. The school facilities board
19 shall multiply the cost per square foot by 1.05 for any school district
20 located in a rural area. The school facilities board may modify the base
21 cost per square foot prescribed in this subdivision for particular schools
22 based on geographic conditions or site conditions. For the purposes of this
23 subdivision, "rural area" means an area outside a thirty-five mile radius of
24 a boundary of a municipality with a population of more than fifty thousand
25 persons ~~according to the most recent United States decennial census.~~

26 (d) Once the school district governing board obtains approval from the
27 school facilities board for new facility construction funds, additional
28 portable or modular square footage created for the express purpose of
29 providing temporary space for pupils until the completion of the new facility
30 shall not be included by the school facilities board for the purpose of new
31 construction funding calculations. On completion of the new facility
32 construction project, if the portable or modular facilities continue in use,
33 ~~then~~ the portable or modular facilities shall be included as prescribed by
34 this chapter, unless the school facilities board approves their continued use
35 for the purpose of providing temporary space for pupils until the completion
36 of the next new facility that has been approved for funding from the new
37 school facilities fund.

38 4. For projects approved after December 31, 2001, and notwithstanding
39 paragraph 3 of this subsection, a unified school district that does not have
40 a high school is not eligible to receive high school space as prescribed by
41 section 15-2011 and this section unless the unified district qualifies for
42 geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of
43 this subsection.

44 E. Monies for architectural and engineering fees, PROJECT MANAGEMENT
45 AND PRECONSTRUCTION SERVICES shall be distributed on the completion of the

1 analysis by the school facilities board of the school district's request.
2 After receiving monies pursuant to this subsection, the school district shall
3 submit a design development plan for the school or addition to the school
4 facilities board before any monies for construction are distributed. If the
5 school district's request meets the building adequacy standards, the school
6 facilities board may review and comment on the district's plan with respect
7 to the efficiency and effectiveness of the plan in meeting state square
8 footage and facility standards before distributing the remainder of the
9 monies. IF THE SCHOOL FACILITIES BOARD MODIFIES THE COST PER SQUARE FOOT AS
10 PRESCRIBED IN SUBSECTION D, PARAGRAPH 3, SUBDIVISION (c), THE SCHOOL
11 FACILITIES BOARD MAY DEDUCT THE COST OF PROJECT MANAGEMENT SERVICES AND
12 PRECONSTRUCTION SERVICES FROM THE REQUIRED COST PER SQUARE FOOT. The school
13 facilities board may decline to fund the project if the square footage is no
14 longer required due to revised enrollment projections.

15 F. The school facilities board shall distribute the monies needed for
16 land for new schools so that land may be purchased at a price that is less
17 than or equal to fair market value and in advance of the construction of the
18 new school. If necessary, the school facilities board may distribute monies
19 for land to be leased for new schools if the duration of the lease exceeds
20 the life expectancy of the school facility by at least fifty per cent. The
21 proceeds derived through the sale of any land purchased or partially
22 purchased with monies provided by the school facilities board shall be
23 returned to the state fund from which it was appropriated and to any other
24 participating entity on a proportional basis. If a school district acquires
25 real property by donation at an appropriate school site approved by the
26 school facilities board, the school facilities board shall distribute an
27 amount equal to twenty per cent of the fair market value of the donated real
28 property that can be used for academic purposes. The school district shall
29 place the monies in the unrestricted capital outlay fund and increase the
30 unrestricted capital outlay limit by the amount of monies placed in the fund.
31 Monies distributed under this subsection shall be distributed from the new
32 school facilities fund. A school district shall not pay a consultant a
33 percentage of the value of any of the following:

34 1. Donations of real property, services or cash from any of the
35 following:

36 (a) Entities that have offered to provide construction services to the
37 school district.

38 (b) Entities that have been contracted to provide construction
39 services to the school district.

40 (c) Entities that build residential units in that school district.

41 (d) Entities that develop land for residential use in that school
42 district.

43 2. Monies received from the school facilities board on behalf of the
44 school district.

1 3. Monies paid by the school facilities board on behalf of the school
2 district.

3 G. In addition to distributions to school districts based on pupil
4 growth projections, a school district may submit an application to the school
5 facilities board for monies from the new school facilities fund if one or
6 more school buildings have outlived their useful life. If the school
7 facilities board determines that the school district needs to build a new
8 school building for these reasons, the school facilities board shall remove
9 the square footage computations that represent the building from the
10 computation of the school district's total square footage for purposes of
11 this section. If the square footage recomputation reflects that the school
12 district no longer meets building adequacy standards, the school district
13 qualifies for a distribution of monies from the new school construction
14 formula in an amount determined pursuant to subsection D of this section.
15 Buildings removed from a school district's total square footage pursuant to
16 this subsection shall not be included in the computation of monies from the
17 building renewal fund established by section 15-2031. The school facilities
18 board may modify the base cost per square foot prescribed in this subsection
19 under extraordinary circumstances for geographic factors or site conditions.

20 H. School districts that receive monies from the new school facilities
21 fund shall establish a district new school facilities fund and shall use the
22 monies in the district new school facilities fund only for the purposes
23 prescribed in this section. By October 15 of each year, each school district
24 shall report to the school facilities board the projects funded at each
25 school in the previous fiscal year with monies from the district new school
26 facilities fund and shall provide an accounting of the monies remaining in
27 the new school facilities fund at the end of the previous fiscal year.

28 I. If a school district has surplus monies received from the new
29 school facilities fund, the school district may use the surplus monies only
30 for capital purposes for the project for up to one year after completion of
31 the project. If the school district possesses surplus monies from the new
32 school construction project that have not been expended within one year of
33 the completion of the project, the school district shall return the surplus
34 monies to the school facilities board for deposit in the new school
35 facilities fund.

36 J. The board's consideration of any application filed after July 1,
37 2001 or after December 31 of the year in which the property becomes territory
38 in the vicinity of a military airport or ancillary military facility as
39 defined in section 28-8461 for monies to fund the construction of new school
40 facilities proposed to be located in territory in the vicinity of a military
41 airport or ancillary military facility shall include, if after notice is
42 transmitted to the military airport pursuant to section 15-2002 and before
43 the public hearing the military airport provides comments and analysis
44 concerning compatibility of the proposed school facilities with the high
45 noise or accident potential generated by military airport or ancillary

1 military facility operations that may have an adverse effect on public health
2 and safety, consideration and analysis of the comments and analysis provided
3 by the military airport before making a final determination.

4 K. If a school district uses its own project manager for new school
5 construction, the members of the school district governing board and the
6 project manager shall sign an affidavit stating that the members and the
7 project manager understand and will follow the minimum adequacy requirements
8 prescribed in section 15-2011.

9 L. The school facilities board shall establish a separate account in
10 the new school facilities fund designated as the litigation account to pay
11 attorney fees, expert witness fees and other costs associated with litigation
12 in which the school facilities board pursues the recovery of damages for
13 deficiencies correction that resulted from alleged construction defects or
14 design defects that the school facilities board believes caused or
15 contributed to a failure of the school building to conform to the building
16 adequacy requirements prescribed in section 15-2011. Attorney fees paid
17 pursuant to this subsection shall not exceed the market rate for similar
18 types of litigation. Monies recovered as damages pursuant to this subsection
19 shall be used to offset debt service on the correction of existing
20 deficiencies as prescribed by section 15-2021. The joint committee on
21 capital review shall conduct an annual review of the litigation account,
22 including the costs associated with current and potential litigation.

23 M. Until the state board of education and the auditor general adopt
24 rules pursuant to section 15-213, subsection J, the school facilities board
25 may allow school districts to contract for construction services and
26 materials through the qualified select bidders list method of project
27 delivery for new school facilities pursuant to this section.

28 N. THE SCHOOL FACILITIES BOARD SHALL SUBMIT A REPORT ON PROJECT
29 MANAGEMENT SERVICES AND PRECONSTRUCTION SERVICES TO THE GOVERNOR, THE
30 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES BY
31 DECEMBER 31 OF EACH YEAR. THE REPORT SHALL COMPARE PROJECTS THAT USE PROJECT
32 MANAGEMENT AND PRECONSTRUCTION SERVICES WITH THOSE THAT DO NOT. THE REPORT
33 SHALL ADDRESS COST, SCHEDULE AND OTHER MEASURABLE COMPONENTS OF A
34 CONSTRUCTION PROJECT. SCHOOL DISTRICTS, CONSTRUCTION MANAGER AT RISK FIRMS
35 AND PROJECT MANAGEMENT FIRMS THAT PARTICIPATE IN A SCHOOL FACILITIES BOARD
36 FUNDED PROJECT SHALL PROVIDE THE INFORMATION REQUIRED BY THE SCHOOL
37 FACILITIES BOARD IN RELATION TO THIS REPORT.

APPROVED BY THE GOVERNOR MAY 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2005.

Passed the House March 14, 2005,

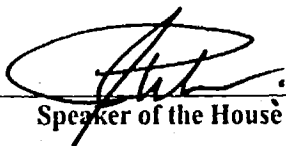
Passed the Senate April 18, 2005,

by the following vote: 54 Ayes,

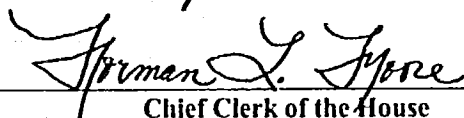
by the following vote: 16 Ayes,

2 Nays, 4 Not Voting

12 Nays, 2 Not Voting


Speaker of the House


President of the Senate


Chief Clerk of the House


Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this~~

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

~~Approved this _____ day of~~

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State~~

~~this _____ day of _____, 20____,~~

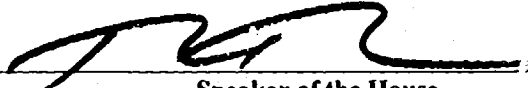
~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 11, 2005,
by the following vote: 51 Ayes,

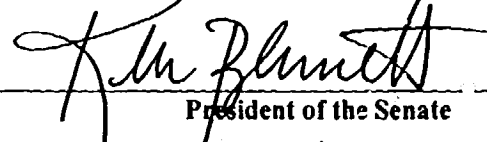
3 Nays, 6 Not Voting


Speaker, of the House
Pro Tempore
Norman L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 12, 2005,
by the following vote: 25 Ayes,

1 Nays, 4 Not Voting


President of the Senate
Chaimin Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor


this 12th day of May, 2005

at 4:15 o'clock P. M.

Wennifer Ibarra
Secretary to the Governor

Approved this 26 day of

May, 2005,
at 9:15 o'clock A. M.


Governor of Arizona

H.B. 2382

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 2005

at 3:03 o'clock P. M.

Janice K. Brewer
Secretary of State